

REMARKS

New Claims 27-29 have been added. Support for these new claims exists throughout the entire specification, particularly at page 9, lines 16-17 and in the examples.

Claims 1-21 and 24-29 are currently pending.

The Office Action rejected claims 1-6, 8, 9, 13-17, 20, 21 and 24-26 under 35 U.S.C. § 103 as obvious over U.S. patent application publication no. 2003/0108501 (“Hofrichter”); claims 1-3, 5-15, 17-21 and 24-26 under 35 U.S.C. § 103 as obvious over U.S. patent 5,955,415 (“Gutierrez”) and claims 7, 10-12 and 18 under 35 U.S.C. § 103 as obvious over Hofrichter in view of Gutierrez. In view of the following comments, Applicants respectfully request reconsideration and withdrawal of these rejections.

Gutierrez neither teaches nor suggests the invention compositions. For example, Gutierrez neither teaches nor suggests shampoos or conditioners containing PEI and solid mineral particles. Gutierrez discloses that only “detergent compositions” contain “detergent builders.” (See, col. 13, lines 65-67). Gutierrez’s detergent compositions differ from his personal or hair care products. (See, col. 44, lines 46-67). Thus, Gutierrez never teaches nor suggests that detergent builders (which could possibly be mineral particles) can be added to shampoos or conditioners.

Rather, Gutierrez states that “the PEI chelants/sequestrants and their salts of the present invention are useful in a variety of detergent, personal product ....which are available in many types and forms.” (Col. 44, lines 46-50). Thus, Gutierrez merely discloses that PEI is suitable for use in shampoos and conditioners. This is

nothing more than Gutierrez discloses earlier in his patent in his discussion of the prior art (at col. 2, lines 60-62; col. 3, lines 1-3) where he states that shampoos containing PEI but not detergency builders were known.

Gutierrez neither teaches nor suggests that PEI can be combined with the claimed mineral particles in shampoos or conditioners, let alone combined in shampoos or conditioners in the claimed ratios. In fact, Gutierrez expressly states that such compositions do not contain “detergent builders” (see, for example, col. 2, line 56 et seq.) and, thus, actually teaches away from combining solid mineral particles and PEI in such compositions. For this reason alone Gutierrez neither teaches nor suggests the claimed invention.

Furthermore, with respect to claims 27 and 28, these claims require the presence of less than 5% of the claimed solid mineral particles. In contrast, Gutierrez discloses that his detergent compositions contain between 5-80% detergent builder. (Col. 14, line 1). Thus, Gutierrez neither teaches nor suggests the subject matter of these claims because Gutierrez neither teaches nor suggests compositions having so little detergent builder.

Hofrichter also fails to teach or suggest the invention compositions. Hofrichter merely states that a suspending agent can optionally be present in his compositions, and that PEI could possibly be such a suspending agent. Nothing in Hofrichter teaches, suggests, or recognizes any benefits associated with actually combining PEI and solid mineral particles in a shampoo or a rinse-out conditioner. In other words, given only the general guidance provided by Hofrichter, one skilled in the art would not be motivated to combine the claimed solid mineral particles with

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PEI with the expectation that a useful, beneficial shampoo or rinse-out conditioner would result.

This is particularly true given that the claims require solid mineral particles and PEI to be present in a specific ratio: a specific ratio which is neither taught nor suggested by Hofrichter. Nothing in Hofrichter would lead one skilled in the art to combine solid mineral particles and PEI in the required concentrations in shampoos or rinse-out conditioners, meaning that Hofrichter would not lead one skilled in the art to the claimed compositions or methods.

In view of the above, Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 103.

Applicant believes that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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